

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 433 (M/S) of 2001

(Old No. 10567 of 1995)

1. Sri Shamsheer Singh,
2. Sri Om Prakash
3. Sri Ranvi Singh.
All sons of Sri Pyara Singh
R/o Village Sarkari, Tehsil Bazpur,
District Nainital

.... Petitioners

Vs

1. The State of Uttar Pradesh through the Collector, Nainital.
2. The Prescribed Authority/ Sub-Divisional Magistrate.
District Nainital.

.... Respondents

Sri K.S. Bhaskar learned counsel for the petitioner.
Sri R.C. Arya learned Standing counsel for the respondents.

Dated: -07-09-2006

Hon'ble B.S. Verma, J.

Heard Sri K.S. Bhaskar learned counsel for the petitioner and Sri R.C. Arya learned Standing counsel for the State.

2. By the present writ petition the petitioner has prayed for quashing of the notice dated 13-3-1995 issued under Section 4 (1) of the U.P. Public Premises (Eviction of unauthorized occupants) 1972 Act in respect of Khasra No.210-B area 0.221 acre and Khasra No.201 Area 1.068 acre in Village Sarkari, Tehsil Bazpur, District Nainital.

3. Brief facts of the case are that the land in dispute is in possession of the petitioners since the time of their father. The notices were issued to the petitioners on 9-12-1994 against which the petitioners replied vide their letter dated 20-12-1974 mentioning there in that the petitioners are in possession of the disputed property since before the passing of U.P. Zamindari Abolition and Land Reforms Act and they acquired Bhumidari rights over the land in dispute. The petitioners instead of giving the possession of the disputed land, the respondents initiated proceedings

under Section 4(1) U.P. Public Premises (Eviction of unauthorized occupants) Act were issued against the petitioner vide notice dated 13-3-1995.

4. Feeling aggrieved by the aforesaid notice, the petitioners have preferred this petition before the Allahabad High Court, which has been transferred to this Court, for disposal, after creation of new State.

5. I have heard the submissions of the learned Standing counsel appearing on behalf of the respondents –State and Sri K.S. Bhaskar learned counsel for the petitioner and perused the record.

6. At the outset, it may be mentioned that this Court vide judgment and order delivered on 25-5-2006 in Writ Petition No.3235 (M/S) of 2001 Krishna Kant Vs. Ist Additional District Judge Nainital and others along with 42 others writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and its was open to the State to proceed for eviction of the petitioners under the provisions of the U.P.Zamindari Abolition and Land Reforms Act/KUZA Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. and L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned Standing Counsel fairly conceded that the present petition is squarely covered by the said judgment.

7. In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, there is no need to repeat the same material again in the case at hand. The present writ petition if fully covered by the Judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006 itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

8. The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital. No order as to costs.

(B.S. Verma, J.)

Dated:- 07-09-2006
M.K.